MEASURED FIELD INTENSITY
WPGH, CHANNEL 53, PITTSBURGH, PENNSYLVANIA

Location Number	Address	Field Intensity				
		Maximum (dBu)	Minimum (dBu	Median (dBu)	Standard Deviation (dB)	Adjusted* (dBu)
1547	515 Lincoln Avenue 48F3	110.3	70.8	104.5	5.8	98.7
1576	227 West Steuben Street	96.4	49.0	78.3	6.6	71.7
1605	535 Small Ferry Road	77.8	43.5	71.0	4.0	67.0
1634	1617 Moravia Street	85.7	72.4	79.8	2.5	77.3
1663	430 Fisk Street	100.2	85.5	91.5	2.0	89.5
1692	10592 Perry Highway 228W	108.2	62.8	90.1	7.3	82.8
1721	1918 Strawbridge Drive	82.5	54.5	73.4	3.7	69.7
1750	160 Sycamore Street	80.4	58.7	72.8	6.2	66.6
1779	280 39th Street	114.5	105.0	111.4	2.3	109.1
1808	829 Excelsior Street	96.9	56.3	83.0	5.8	77.2
1837	515 Lincoln Ave., Apt. 48-135	110.3	70.8	104.5	5.8	98.7
1866	1002 Lake Street	78.7	50.4	59.1	7.4	51.7
1895	47 Hudak Lane	71.0	25.1	55.6	7.7	47.9
1924	1769 Crafton Boulevard	87.5	48.2	74.9	5.9	69.0
1953	101 Ivy Court	81.9	42.5	71.2	5.8	65.4
1982	2220 Nickle Road, NE	59.7	22.9	46.4	7.0	39.4
2011	150 Woodhaven Drive	63.7	31.2	44.0	8.7	35.3
2040	342 Noll Road	64.5	32.9	52.7	7.6	45.1
2069	2051 Allison Drive	91.8	79.8	87.8	1.9	85.9
2098	2121 William Penn Highway	96.5	91.7	91.8	0.4	91.4
2127	411 Duquesne Drive	102.5	62.3	90.4	6.0	84.4
2156	21 East Schoonmaker Avenue	65.0	30.7	55.6	5.3	50.3
2185	120 Sunnyhill Drive	111.1	74.5	102.5	6.0	96.5
2214	253 Main Street, #4	76.3	35.5	56.0	5.8	50.2
2243	1003 Delafield Road	88.7	45.7	73.5	5.7	67.8
2272	515 Lincoln Avenue 48G79	110.3	70.8	104.5	5.8	98.7
2301	70 Glenn Way	108.4	64.6	91.0	8.4	82.6

* Median minus Standard Deviation

MEASURED FIELD INTENSITY
WPGH, CHANNEL 53, PITTSBURGH, PENNSYLVANIA

Location Number	Address	Field Intensity				
		Maximum (dBu)	Minimum (dBu	Median (dBu)	Standard Deviation (dB)	Adjusted* (dBu)
2330	303 Freeport Road	112.0	103.5	109.0	1.6	107.4
2359	Road 3 Box 130	91.4	76.4	85.9	2.9	83.0
2388	409 Forest Grove Avenue	77.4	34.8	69.1	6.0	63.1
2417	119 Walnut Lane	81.5	37.8	62.2	6.2	56.0
2446	534 Nicholson Avenue	74.2	32.9	62.9	7.1	55.8
2475	1318 Liverpool Street 2	91.7	50.8	71.0	6.3	64.7
2504	1231 Laurel Hill Drive	113.6	101.0	107.5	2.3	105.2
2533	1731 Woodmont Avenue	72.9	44.6	61.0	4.9	56.1
2562	12 Quail Court	44.5	26.2	35.9	4.6	31.3
2591	288 Leisie Road	69.8	27.0	57.1	6.3	50.8
2620	175 South 16th Street	113.9	107.9	111.6	1.1	110.5
2649	363 Ceylon Road	53.7	24.5	35.5	7.8	27.7
2707	910 Scenic Drive	68.7	31.2	54.4	8.4	46.0
2736	275 Kelly Boulevard	77.4	67.8	73.6	1.6	72.0
2765	614 Edgewood Road	88.6	42.4	71.1	7.1	64.0
2794	14630 Cannons Mill Road	54.1	22.5	38.5	5.6	32.9
2823	400 Black Road	63.0	46.7	54.4	2.8	51.5
2852	600 Jennifer Drive	91.3	62.2	79.8	6.1	73.7
2881	5135 Karrington Drive	108.5	62.3	93.5	7.4	86.1
2910	169 West Main Street	74.3	29.2	61.5	5.9	55.6
2939	263 Winters Drive	73.8	42.3	65.4	6.3	59.1
2968	515 Lincoln Avenue #164	110.3	70.8	104.5	5.8	98.7
2997	311 Dixon Avenue	84.7	45.6	71.7	6.6	65.1
3026	360 Northgate Drive	86.5	65.6	73.1	2.0	71.1
3055	124 Witherow Road	85.3	71.8	73.9	3.2	70.7

* Median minus Standard Deviation

MEASURED FIELD INTENSITY
WWCP, CHANNEL 8, JOHNSTOWN, PENNSYLVANIA

Location Number	Address	Field Intensity				
		Maximum (dBu)	Minimum (dBu	Median (dBu)	Standard Deviation (dB)	Adjusted* (dBu)
39	1186 Sugar Hollow Road	57.8	21.0	49.7	3.7	46.0
68	195 Duquesne Avenue	86.5	65.6	58.1	2.0	56.1
97	5644 Northumberland Street	68.8	42.3	65.0	2.0	63.0
416	122 Prospect Street	82.1	48.7	49.4	3.0	46.4
532	113 Ammons Drive	59.9	37.5	48.7	5.1	43.6
590	1329 Poplar Street	75.6	19.3	41.6	18.9	22.7
648	4556 William Penn Highway	66.3	38.5	56.8	1.0	55.8
735	108 South Chestnut Street C	89.3	40.9	41.9	4.4	37.5
793	102 Castner Avenue	77.7	42.5	63.6	2.6	61.0
822	618 Clay Avenue	50.3	27.3	41.9	6.4	35.5
909	730 North Second Street	45.4	16.2	30.0	15.0	15.0
938	1038 Locust Lane	79.7	34.8	48.5	4.6	43.9
1083	5128 Amleth Drive	63.4	27.6	54.7	2.7	52.0
1112	260 Donnan Avenue	52.2	20.8	34.9	10.5	24.4
1199	210 Overdale Drive	71.9	32.8	63.6	4.9	58.8
1257	144 N. Dithridge St., Apt. 811	81.0	43.2	58.9	4.4	54.5
1344	150 Mumntown Road	71.6	34.5	66.0	3.5	62.5
1431	11 Windsor Street	78.3	54.6	74.1	1.4	72.7
1460	645 Glenwood Way	34.3	16.9	24.9	8.2	16.7
1489	713 Westmoreland Avenue	83.1	39.9	46.4	4.0	42.4
1692	10592 Perry Highway 228W	70.1	47.1	66.6	1.2	65.4
1866	1002 Lake Street	57.1	21.1	51.4	3.1	48.3
2011	150 Woodhaven Drive	77.3	34.2	75.4	1.3	74.1
2098	2121 William Penn Highway	80.5	45.4	72.8	3.3	69.5
2156	21 East Schoonmaker Avenue	57.9	24.2	49.8	6.0	43.8

* Median minus Standard Deviation

No. 96-3650-Civ-Nesbitt
Pl. Ex. 344

MEASURED FIELD INTENSITY
WWCP, CHANNEL 8, JOHNSTOWN, PENNSYLVANIA

Location Number	Address	Field Intensity				
		Maximum (dBu)	Minimum (dBu	Median (dBu)	Standard Deviation (dB)	Adjusted* (dBu)
2214	253 Main Street, #4	57.9	25.8	40.5	9.7	30.8
2359	Road 3 Box 130	70.0	47.1	66.8	1.1	65.7
2417	119 Walnut Lane	58.2	26.4	47.7	6.8	40.9
2504	1231 Laurel Hill Drive	60.0	22.2	52.1	3.1	49.0
2591	288 Leisie Road	89.1	36.3	47.1	4.6	42.5
2649	363 Ceylon Road	60.3	52.4	53.4	2.1	51.3
2707	910 Scenic Drive	47.9	26.9	40.9	7.6	33.3
2765	614 Edgewood Road	66.9	18.4	57.8	4.9	52.9
2881	5135 Karrington Drive	71.4	36.5	66.2	2.8	63.4
2910	169 West Main Street	58.2	37.5	47.7	5.3	42.4
2997	311 Dixon Avenue	51.4	20.9	41.2	6.8	34.4
3026	360 Northgate Drive	64.4	19.1	55.2	4.2	51.0
3055	124 Witherow Road	103.9	58.6	99.9	4.3	95.6

* Median minus Standard Deviation

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April 10, 1996

Todd Hardy, Esquire
Hardy & Ellison, P.C.
Suite 100
9306 Old Keene Mill Road
Burke, Virginia 22015

Dear Todd:

On January 26, you forwarded a draft of a proposed industry agreement. We were disappointed that your proposal did not include the signal measurement methodology that we had recommended to you last year. Notwithstanding our best efforts over many months to reach agreement on a signal measurement methodology, it appears we are at an impasse. Your clients have insisted on a "subjective"--rather than "objective"--signal measurement standard which (aside from violating the Act) would lead to endless confusion both for viewers and the affected industries alike.

Accordingly, we are proceeding with the enclosed measurement methodology developed by our consulting engineer. Except for inclusion of your proposed "subjective" signal strength standard, this methodology conforms to the core agreement reached last year between your engineer and our engineer. It comports with all the requirements of the Act and with sound television engineering principles. The affiliates of the major networks are being furnished this measurement methodology.

With kindest regards.

Sincerely,

BROOKS, PIERCE, McLENDON
HUMPHREY & LEONARD, L.L.P.

Wade H. Hargrove

WHH/kll

No. 96-3650-Civ-Nesbitt
Def. Ex. 649

EXHIBIT
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3/27/97 ST

du Treil, Lundin & Rackley, Inc.
A Subsidiary of A.D. Ring, P.A.

February 27, 1996

SATELLITE HOME VIEWER ACT
TV SIGNAL MEASUREMENT METHODOLOGY

The field strength test procedure outlined below is in response to the Satellite Home Viewer Act (SHVA) to enable the determination of an "unserved household." An unserved household is defined as a location not receiving a minimum Grade B intensity signal from an over-the-air television network affiliated station. An unserved household would qualify to receive network programming from a direct broadcasting satellite (DBS) service.

Background

While measuring a television station's field strength may initially appear to be elementary, the effect of multipath (or signal reflections) must be considered. In urban areas, the field strength deviation, or difference between the maximum and minimum values, is typically several decibels over a 100 feet horizontal distance if measured continuously. A higher field strength deviation is usually pronounced at UHF channels. An independent procedure evaluating multiple measurements is therefore required to determine the received field strength of an over-the-air television station at the household.

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The field strength measurement procedure to be used is similar to the "cluster" procedure outlined in Section 73.686(b)(2)(viii) of the FCC rules. For each cluster measurement set, five field strength measurements are completed. The corrected median field strength of the measurements, accounting for receiving antenna gain, receiving antenna transmission line loss and antenna factor is calculated.

Required Test Equipment

The following equipment is recommended for the measurement procedure:

- Vehicle with a telescoping mast or some other means of elevating the receiving antenna to five (5) feet above the highest point of the home's roof-top level. If the roof height is beyond the maximum height of the mast, elevation of the antenna to thirty (30) feet above ground level is acceptable.
- Field Strength Meter with either a 75 ohm or 50 ohm input impedance. The field strength meter can be any radiofrequency voltmeter unit capable of accurately indicating the peak amplitude of the synchronizing signal (peak-of-sync) in the visual carrier.
- Channel Master Channel King 3646 UHF/VHF Receiving Antenna. Other makes of outdoor rooftop receiving antennas are possible so long as the gain for the specific channel being measured has been accurately established.
- 300 ohm to 75 ohm balun transformer.
- RG-59U transmission line cable with foam polyethylene insulation and 95% percent bare copper braid shield coverage.

Procedure

The purpose of the procedure set forth below is to independently replicate the receiving environment atop the household roof. A set of five individual measurements shall be made at each satellite home viewer household. A location should be chosen as close to the household as possible and free of overhead power lines. The measurement area, such as the home's driveway, should be large enough to permit a cluster of 5 measurements taken at locations similar to a "5" on a dice; or at the corners of a square and in the middle of the square.

At each individual measurement location, the receiving antenna shall be elevated to 5 feet above the highest point of the household's roof as illustrated in Figure 1. If for some reason it is not possible to place the receiving antenna at the desired height, then use a height of 30 feet above ground level.

A sketch showing the 5 measurement positions is shown on Figure 2. If possible, the individual "corner" measurements should be spaced at least 18 feet apart for Channels 2 through 6 or at least 10 feet apart for channels 7 through 69.

A step-by-step procedure is outlined below:

1. Locate the vehicle with the antenna centered at the first measurement location.
2. Attach the Channel Master King 3646 VHF/UHF antenna to the top of the collapsed mast on the vehicle.
3. Connect the 300 ohm port of the balun to the antenna.
4. Connect the RG-59/U cable to the 75 ohm port of the balum.

5. As a safety consideration, confirm the antenna will not elevate into an overhead obstacle such as a power line.
6. Elevate the receiving antenna until the antenna is located 5 feet above the roof peak as shown on Figure 1. If the roof height is excessive, elevate the antenna to 30 feet above ground level.
7. Connect the cable from the receiving antenna to the field strength test instrument.
8. Orient the antenna for a maximum signal strength.
9. Visually confirm that the antenna is oriented towards the direction of the broadcast station's transmitter.
10. If required, calibrate the field strength meter.
11. Note the reading of the field strength meter.
12. Collapse the antenna mast.
13. Relocate the vehicle so the antenna is centered at the next measurement location as noted on Figure 2.
14. Repeat steps 7 through 15 for the next four measurements.
15. Complete the worksheet to determine the corrected measured field strength.

If the corrected measured field strength is below 47 dBu for television channels 2 through 6; below 56 dBu for television channels 7 through 13; or below 64 dBu for television channels 14 through 69, then the measurement location is considered an unserved household. If the measured field strength is equal to or greater than the above values, then the home is considered to be served by the network affiliate, and not eligible for receiving the network service from the satellite carrier.

Figure 1

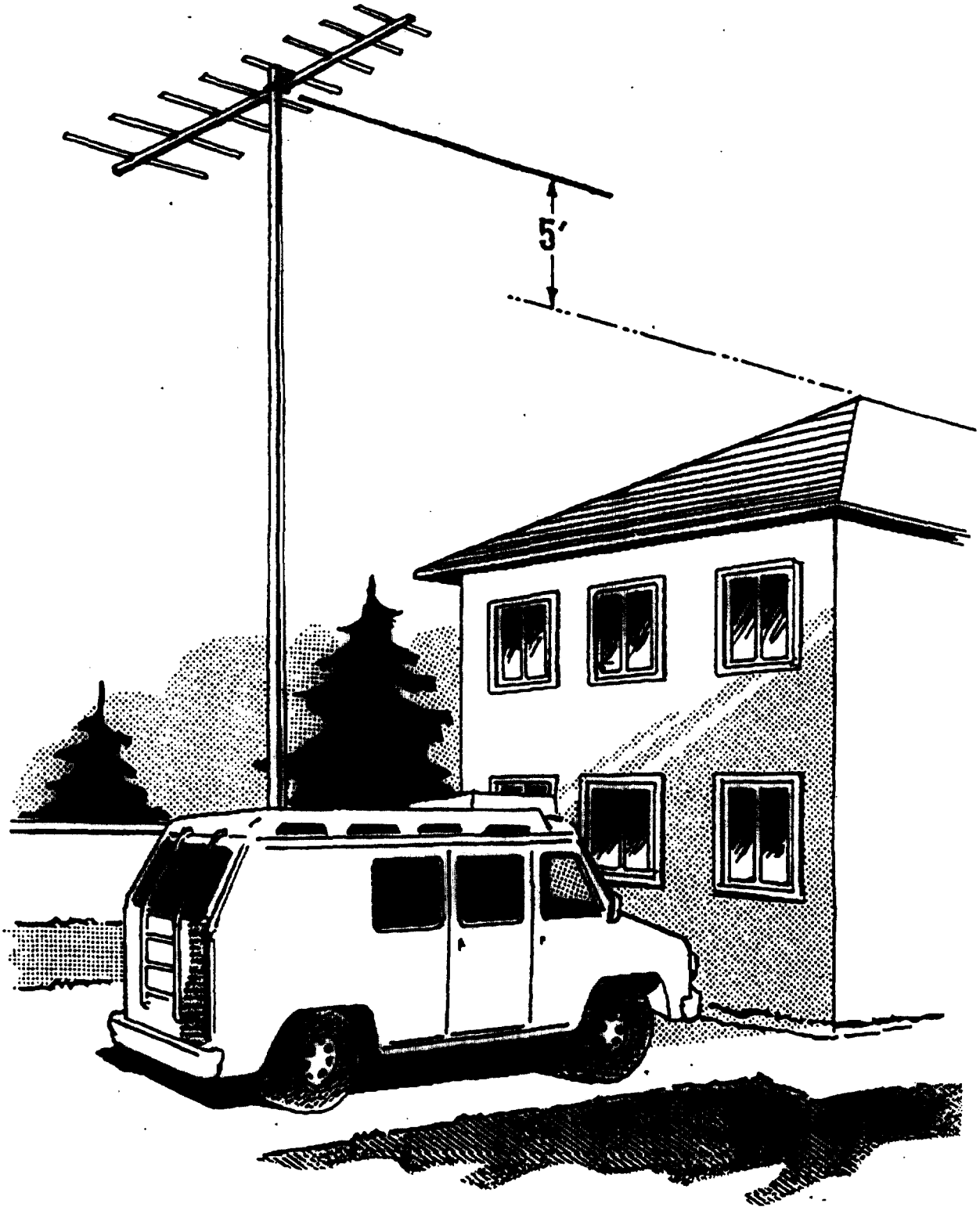
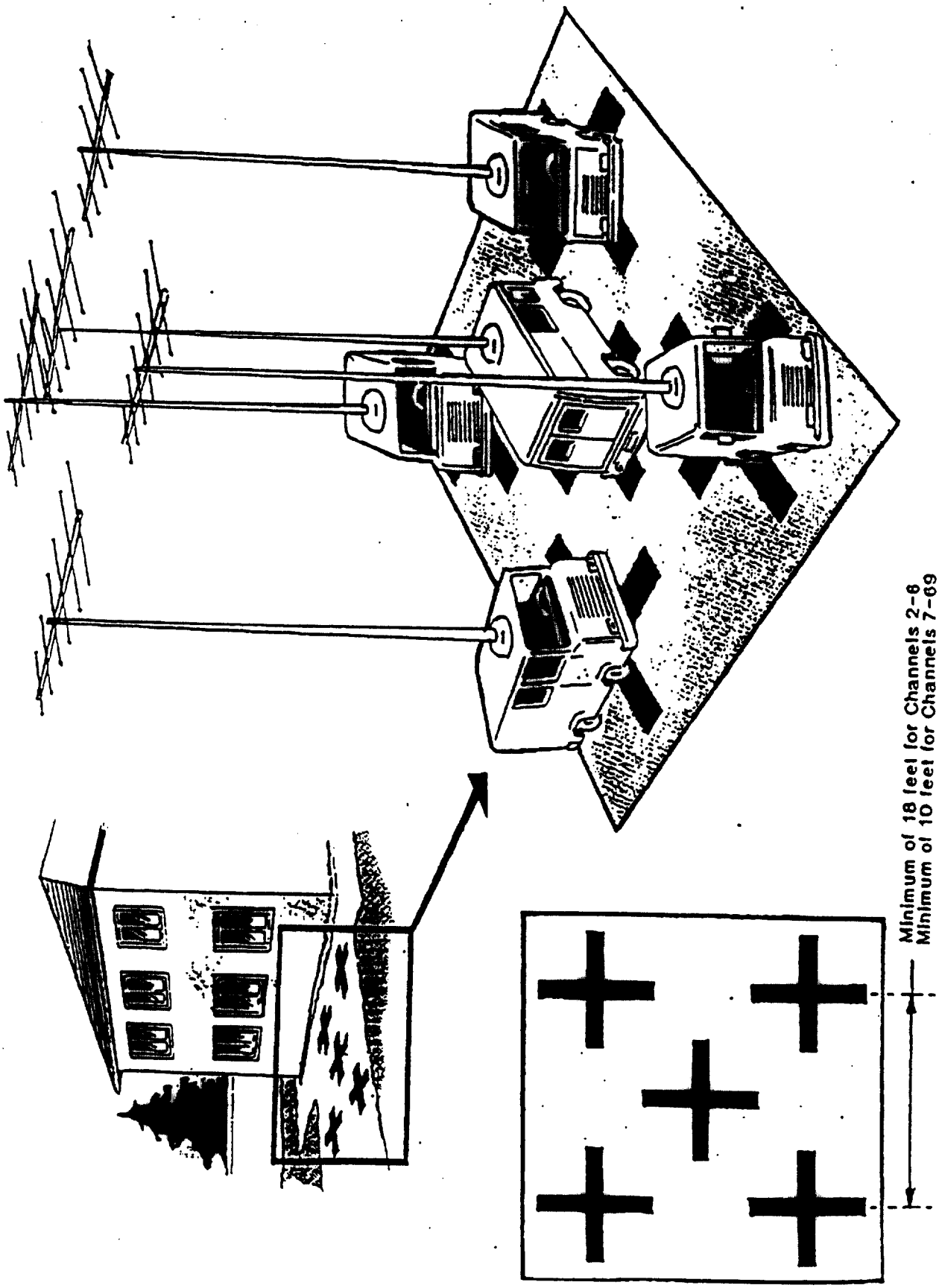


Figure 2


Minimum of 18 feet for Channels 2-6
Minimum of 10 feet for Channels 7-69

TELEVISION FIELD STRENGTH MEASUREMENT WORKSHEET

This worksheet was prepared to assist in the measurement of an over-the-air television station's field strength in response to the Satellite Home Viewer Act of 1994.

Station Call, Channel and City of License _____

Date of measurements _____ Local time of measurements _____

Description of location or address of household _____

Weather during measurements _____

Field Strength Meter	Receiving Antenna	Transmission Line
Manufacturer _____	Manufacturer _____	Type _____
Model Number _____	Model Number _____	Length of line _____
Serial Number _____	Gain at Measured Channel _____ (Relative to isotropic radiator (dBi))	Loss at Measured Channel _____ (Considers entire length of line (dB))

Description of present television receiving antenna at household (if known) _____

Additional comments _____

CLUSTER MEASUREMENTS

Location 1[1] _____ dB(uV)

Location 2 _____ dB(uV)

Location 3 _____ dB(uV)

Location 4 _____ dB(uV)

Location 5 _____ dB(uV)

Cluster Median[2] _____ dB(uV)

Cable Loss[3] + _____ dB

Antenna Gain[4] - _____ dBi

Frequency Factor[5] + _____ dB

Field Strength Factor - 31.5 dB

Corrected Field Strength[6] _____ dBu

PROCEDURE

A) Connect the balun to the antenna located atop the measurement vehicle
B) Connect the 75 ohm RG-59/U cable between the balun and the field strength meter
C) Confirm that no obstacles such as power lines are overhead
D) Elevate the antenna five feet above the household's roof peak; if not practical, elevate antenna 30 feet above ground level
E) Orient the antenna for a maximum signal strength
F) After calibrating the meter if necessary, record the field strength the location
G) Collapse the elevated antenna
H) Relocate the antenna so the antenna is centered at the next measurement location

VHF Channel	Antenna Gain (dBi)	Cable Loss (dB/100 ft)	Frequency Factor (dB)	UHF Channels	Antenna Gain (dBi)	Cable Loss (dB/100 ft)	Frequency Factor (dB)
2	6.2	2.1	34.8	14-17	8.7	6.4	53.7
3	4.2	2.2	35.7	18-21	9.0	6.6	54.1
4	3.9	2.3	36.5	22-25	8.4	6.7	54.4
5	4.2	2.5	37.7	26-29	8.2	6.8	54.9
6	3.3	2.6	38.4	30-33	8.8	7.0	55.2
7	6.2	2.8	44.8	34-36	9.6	7.2	56.6
8	6.4	3.8	45.1	38-43	10.2	7.4	56.1
9	7.7	3.9	45.4	44-48	10.4	7.6	58.5
10	5.2	4.0	45.7	49-53	8.7	7.8	56.8
11	5.8	4.1	46.0	54-64	10.5	7.9	57.2
12	6.6	4.2	46.2	58-63	11.1	8.0	57.6
13	4.2	4.2	46.5	64-69	11.1	8.1	57.9

[1]The units from the field strength meter should be in dB(uV), decibles relative to one microvolt. The conversion from voltage to decibles is *20*log(microvolts)*. The coversion from power (dBm) to voltage dB(uV) for a 75 ohm load is *P(dBm) + 108.6*
[2]Order measurements from high to low and select the middle value.
[3]See adjoining table if RG-59/U transmission line is employed; ratio cable loss for specific length of line.
[4]See adjoining table if Channel Master King 3646 VHF/UHF antenna is employed.
[5]See adjoining table.
[6]If the corrected field strength is below 47 dBu for channels 2-6; below 56 dBu for channels 7-13; or below 64 dBu for channels 14-69, then the measurement location is considered an unserved household.

The undersigned performed the field strength measuremenents in accordance with the procedures detailed in the February 27, 1996 *TV Signal Measurement Methodology* report.

Signature _____ Printed Name _____ Date _____

dLR 02/96

Exhibit C

EXHIBIT C

Excerpts from the transcript and exhibits from the preliminary injunction testimony of Jules Cohen, CBS, Inc., et al. v. PrimeTime 24 Joint Venture, Civil Action No. 96-3650-CIV-NESBITT (S.D. Fla.).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CBS, INC.; FOX BROADCASTING CO.; CBS TELEVISION AFFILIATES ASSOCIATION; POST-NEWSWEEK STATIONS FLORIDA, INC.; KPAX COMMUNICATIONS, INC.; LWWI BROADCASTING, INC.; and RETLAW ENTERPRISES, INC.,	Case No. 96-3650-CIV Judge Nesbitt
Plaintiffs,	MIAMI, FLORIDA
vs.	JUNE 4, 1997
PRIMETIME 24 JOINT VENTURE,	9:00 A.M.
Defendant.	

TRANSCRIPT OF HEARING RE TEMPORARY RESTRAINING ORDER
BEFORE THE HONORABLE LINNEA R. JOHNSON,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

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assumptions built into the calculation of grade A that reflect that, aren't there; namely, the assumption of an indoor rabbit ear antenna rather than a rooftop antenna?
A. **That is correct.**
Q. And the assumption of a significant number of DB of noise in the environment?
A. **For the VHF, not UHF.**
Q. And that noise, very conceptually, reflects this garbage on top of the signals?
A. **You are correct.**
Q. And that by contrast, grade B was defined by the F.C.C. at that point in time to reflect conditions further away from your band areas?
A. **Further away from the transmitter, yes.**
Q. And the assumptions made there was there would be a rooftop antenna, or could be a rooftop antenna, correct?
A. **Yes, that was an assumption made.**
Q. And alleges, in fact, it could be 30 feet up in the air, give or take?
A. **Well, give or take, yes. Thank you.**
Q. And the assumption that even if VFR HF, there would be no noise?
A. **No, no, that's not true.**
Q. You are right, that's not true, because they ultimately assume a noise ratio?

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A. **Excuse me, sir. It isn't only the signals of noise, but there is also a noise figure which is incorporated in two different ways.**
One is the fact in any electronic circuit -- as a matter of fact, it doesn't have to be an electronic circuit. The motion electrons produces the noise. But, then, in addition to that, there are the characteristics of the receivers themselves which will contribute some additional noise. And those were all taken into account.
Q. Sure. And what was not added to the grade B assumptions was any additional noise factor reflecting what we might call ambient or neighborhood or external noise, such as was put into the grade A assumption; is that correct?
A. **Shall we call it manmade noise?**
Q. Thank you. In addition to for manmade noise, that was not put into grade B?
A. **No, it was not put into grade B.**
Q. Thanks. Could you tell me in the VHF, the low VHF for grade B, how many DB were added for the manmade noise? Do you remember?
A. **The number in the lower VHF, there was a 14 DB addition made. Well, let me put it this way.**
No, that is a satisfactory way of doing it, but at the same time, of course, they removed the 60 DB antenna

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gain that was used for the outer limit. So you have a differential of 8 DB which is involved.
Q. Now, although you are not a demographer, would you agree with me that since 1950 there has been a shift in the U.S. population generally from central cities outward?
A. **You mean there has been a growth of suburban areas? I would agree with that.**
Q. Would you also agree that there has been an increase in population density in many areas beyond the grade A contours or grade A calculations that the F.C.C. defined?
A. **There have been some increases and some decreases.**
Q. There has also been generally a significant increase in vehicular traffic all over?
A. **I'm sure that's true.**
Q. And vehicular traffic does contribute to manmade noise?
A. **Yes, it does.**
Q. And the factors I described in the last few questions would tend to increase noise from the 1950 level, at least in some portions of the grade B areas?
A. **In some portions, yes.**
Q. And the F.C.C. has not modified its grade B criteria since the 1950's?
A. **Not its grade B criteria. It has changed its propagation curves, but not the basic criteria.**
Q. I guess we have more than once talked about the fact

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that the Longley/Rice model and the F.C.C. alike deal with the signal 30 feet above the ground; is that right?
A. **That's the basic height above ground that is employed.**
Q. I think its also generally true that as one goes down from 30 feet toward the ground, signal strength decreases?
A. **Not always.**
Q. Well, let me give you this hypothetical:
Someone who lives in Lexington, Massachusetts, may have cable T.V. for their first floor television because they don't get acceptable reception with a rabbit ear, but may not need to connect the third floor cable because rabbit ears up there are satisfactory, and you would understand that phenomenon occurring?
A. **Yes. I would say, because that is usually a product of getting away from the denser foliage at the lower levels.**
Q. Is there a simple way to calculate the decrease in signal strength as one goes down from 30 feet toward the ground?
A. **No simple way, because it varies from location to location, depending upon the surroundings.**
Q. When the Longley/Rice model is run through a computer to do another prediction and it generates a number of DB at a particular location as the answer, that calculation has a certain error associated with it, doesn't it?
A. **I think you have to describe what you mean by error.**

Exhibit D

EXHIBIT D

Excerpts from the transcript and exhibits from the trial testimony, and declaration of, Richard Biby, CBS, Inc., et al. v. PrimeTime 24 Joint Venture, Civil Action No. 96-3650-CIV-NESBITT (S.D. Fla.).

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

CBS INC., ET AL.,	.	CASE NO. 96-3650-CIV-NESBITT
	.	
PLAINTIFFS,	.	MIAMI, FLORIDA
	.	AUGUST 19, 1998
V.	.	10:10 A.M.
	.	
PRIMETIME 24 JOINT VENTURE, ET AL.,	.	
	.	
	.	
DEFENDANTS.	.	
. . . . .		

TRANSCRIPT OF TRIAL PROCEEDINGS HAD

BEFORE THE HONORABLE LENORE C. NESBITT,

UNITED STATES DISTRICT JUDGE.

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VOLUME 5

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT PRODUCED BY COMPUTER.

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- - - - -

THE COURT: ALL RIGHT. LET US PROCEED.

MR. DEUTSCH: PRIMETIME 24 CALLS RICHARD BIBY.

(RICHARD L. BIBY, DEFENDANTS' WITNESS, WAS SWORN.)

THE COURT REPORTER: PLEASE SIT DOWN. PLEASE STATE YOUR FULL NAME FOR THE RECORD, SPELLING YOUR LAST NAME.

THE WITNESS: MY NAME IS RICHARD L. BIBY, BIBY, B-I-B-Y.

DIRECT EXAMINATION

BY MR. DEUTSCH:

Q. WHERE DO YOU LIVE, MR. BIBY?

A. I LIVE AT 4900 NORTH 16TH STREET, ARLINGTON, VIRGINIA.

Q. AND WHAT IS YOUR PROFESSION?

A. I'M A CONSULTING RADIO COMMUNICATIONS ENGINEER.

Q. THROUGH WHAT ENTITY DO YOU NOW DO THAT CONSULTING?

A. COMMUNICATIONS ENGINEERING SERVICES, P.C.

Q. AND ARE YOU THE SOLE STOCKHOLDER OF THAT ENTITY?

A. I AM.

Q. ARE YOU THE SOLE PROVIDER OF SERVICES, AS WELL?

A. AT THE PRESENT TIME, YES.

Q. I'D LIKE BRIEFLY TO REVIEW FOR THE COURT, PLEASE, YOUR EDUCATION AND YOUR EXPERIENCE. IF YOU COULD START BY TELLING US WHAT PROFESSIONAL DEGREES YOU HAVE.

A. I HOLD BACHELOR AND MASTER'S DEGREES IN ELECTRICAL ENGINEERING FROM THE UNIVERSITY OF ILLINOIS.

MAPS THAT WERE PRESENTED HERE IN PART?

A. I'M AWARE OF THAT.

Q. I'VE SHOWN YOU A DOCUMENT, MR. BIBY, AND I'D LIKE YOU TO TELL US, IF YOU CAN, WHAT IT IS.

A. IT'S A LETTER FROM HANK BRANDENBURG, EXECUTIVE VICE PRESIDENT OF DATAWORLD TO MR. THOMAS OLSON.

Q. AND THIS IS THE MR. OLSON WHO IS THE COUNSEL FOR THE PLAINTIFFS IN THIS CASE?

A. CORRECT.

MR. DEUTSCH: AND I WILL STATE TO THE COURT THAT THIS LETTER WAS FILED WITH THE COURT BY MR. OLSON AS PART OF A DECLARATION THAT HE EARLIER SUBMITTED.

(DEFENDANTS' EXHIBIT NUMBER 667 WAS MARKED FOR IDENTIFICATION.)

THE COURT: ALL RIGHT.

MR. DEUTSCH: NOW, AND THIS DOCUMENT HAS BEEN MARKED AS DEFENSE EXHIBIT 667.

THE COURT: THAT IS CORRECT.

BY MR. DEUTSCH:

Q. MR. BIBY, DOES THIS LETTER DISCUSS THE FACT THAT DATAWORLD CAN GENERATE SO-CALLED LONGLEY-RICE MAPS WHILE VARYING THE INPUT PARAMETERS OF THE MODEL USED TO GENERATE THE MAPS?

A. IT DOES.

Q. AND, INDEED, IT REFERS TO THE ABILITY TO GENERATE MAPS,

Q. AND WHAT ARE THE CIRCUMSTANCES FOR WHICH THE F.C.C. HAS DEFINED SIGNAL STRENGTH, T.V. SIGNAL STRENGTH MEASUREMENT PROCEDURES?

A. THERE ARE JUST TWO INSTANCES. THE FIRST OF WHICH, IN ORDER OF APPEARANCES IN THE F.C.C. RULES, IS IN THOSE CASES WHERE THE F.C.C. HAS A DOCKET BEFORE THE PUBLIC LOOKING TOWARD CHANGING THE F.C.C. RULES. IN OTHER WORDS, ONLY UPON THE VERY UNIQUE CIRCUMSTANCE THAT THE COMMISSION ASKS FOR SUCH DATA. THE SECOND --

Q. AND --

A. -- THE SECOND CASE IS VERY NARROWLY AND SPECIFICALLY FOCUSED ON DETERMINATION OF WHETHER A GIVEN COMMUNITY RECEIVES A GIVEN GRADE OF TELEVISION SERVICE OR NOT.

Q. AND THAT IS A COMMUNITY AS OPPOSED TO AN INDIVIDUAL LOCATION?

A. IT IS A COMMUNITY OR AREA DETERMINATION.

Q. AND DO I UNDERSTAND CORRECTLY THAT FOR THE PURPOSES OF ITS PROCEDURE, THE F.C.C. HAS DEFINED A PROCESS OF SETTING OUT A GRID AND LOCATING POINTS ON A GRID FOR TAKING THE MEASUREMENTS?

A. THAT IS CORRECT. THE NUMBER OF POINTS ON THE GRID IS ACCORDING TO A FORMULA BASED ON POPULATION OF THE COMMUNITY.

Q. AND IS THAT PROCEDURE FOR LAYING OUT AND MAKING MEASUREMENTS ON A GRID AN INTEGRAL PART OF THE F.C.C. T.V. SIGNAL STRENGTH MEASUREMENT PROCEDURE?

THE WITNESS: DID I SORT OF EXPLAIN THE CONTEXT, YOUR HONOR?

THE COURT: YES. I THINK THE BEST THING TO DO IS TO READ THE FIRST SENTENCE --

THE WITNESS: THE FIRST --

THE COURT: -- THAT'S NOT UNDERLINED. AND THEN THE COURT REPORTER CAN COPY THE REST OF THE PARAGRAPH BECAUSE I CAN READ WHAT IT SAYS, AND THEN YOU CAN EXPLAIN IT.

THE WITNESS: YES, MA'AM.

MR. DEUTSCH: YOUR HONOR, IT WAS NOT MY INTENT TO READ THE FULL PARAGRAPH READ. BUT, IN ANY EVENT, YOU'RE EXACTLY ALIGNED WITH OUR THINKING.

THANK YOU.

THE COURT: READ THE FIRST --

THE WITNESS: THE, IN MY OPINION, PERTINENT PART OF THE PARAGRAPH READS AS FOLLOWS:

"THE PREPONDERANCE OF ENGINEERING OPINION SUBMITTED IN THIS PROCEEDING IS TO THE EFFECT THAT WHILE FIELD STRENGTH MEASUREMENTS, IF PROPERLY EXECUTED, ARE A VALID MEANS FOR DETERMINING THE GENERAL LEVEL OF A V.H.F. OR U.H.F. SIGNAL PREVAILING OVER A PARTICULAR AREA, E.G., A CITY, THEY CANNOT AND SHOULD NOT BE EMPLOYED IN AN ATTEMPT TO ESTABLISH THE LOCATION OF A PARTICULAR

ARGUES AGAINST THIS MEASUREMENT REGIME?

A. YES, THEY DO, IN THE IMMEDIATELY FOLLOWING PARAGRAPH.

Q. AND WHAT DOES THE F.C.C. CONCLUDE?

A. THEY CONCLUDE THAT ANOTHER OBJECTION OR FAILURE OF THAT PROPOSED PROCESS OR PROCEDURE IS THAT IT FAILS TO TAKE INTO ACCOUNT THE TIME VARIABILITY OF SIGNALS. AND IT POINTS OUT THAT WHILE AT ANY GIVEN TIME ONE MIGHT BE ABLE TO PINPOINT THE LOCATION OF A GIVEN CONTOUR, ONE MUST RECOGNIZE THAT AT SOME OTHER TIME THE CONTOUR WOULD BE SOMEWHERE ELSE.

Q. AND IS THAT CONCLUSION CONSISTENT WITH YOUR OWN PROFESSIONAL OPINION?

A. YES, IT IS.

Q. NOW, MR. BIBY, DOES THE F.C.C. ANYWHERE DEFINE A MEASUREMENT, A SIGNAL STRENGTH MEASUREMENT PROCEDURE FOR SATELLITE HOME VIEWER ACT PURPOSES?

A. THEY DO NOT.

Q. DOES THE F.C.C. ANYWHERE SPECIFY A MEASUREMENT PROCEDURE FOR T.V. BROADCAST SIGNAL STRENGTH WHERE ONE IS DETERMINING THE FIELD STRENGTH OR INTENSITY AT PARTICULAR, SPECIFIC LOCATIONS, LIKE A HOUSEHOLD, AS OPPOSED TO DEFINING COMMUNITY OR AREA COVERAGE OR SERVICE?

A. NO, THE COMMISSION DOES NOT.

Q. NOW, HAVE YOU BEEN EXPERIENCED IN THE COURSE OF YOUR CAREER WITH PREPARING MAPS THAT ILLUSTRATE THE LONGLEY-RICE MODEL PREDICTIONS OF SIGNAL STRENGTH AND SIGNAL COVERAGE?